

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2300

To provide assistance to employees who are subject to a plant closing or mass layoff because their work is transferred to a foreign country that has low wages or unhealthy working conditions and to amend the Worker Adjustment and Retraining Notification Act to expand the coverage and strengthen the notification and enforcement provisions under that Act.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1993

Mr. FORD of Michigan introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To provide assistance to employees who are subject to a plant closing or mass layoff because their work is transferred to a foreign country that has low wages or unhealthy working conditions and to amend the Worker Adjustment and Retraining Notification Act to expand the coverage and strengthen the notification and enforcement provisions under that Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American Jobs Protec-  
5       tion Act”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—ASSISTANCE TO WORKERS SUBJECT TO PLANT CLOSINGS OR MASS LAYOFFS BECAUSE THEIR WORK IS TRANSFERRED TO LOW WAGE FOREIGN COUNTRIES

- Sec. 101. Findings and purposes.
- Sec. 102. Definitions.
- Sec. 103. Limitation on work transfer to low wage foreign countries.
- Sec. 104. Notice requirements.
- Sec. 105. Employee benefits.
- Sec. 106. Restriction on employer to enter into contract with the United States for failure to provide notice or benefits.
- Sec. 107. Investigative authority.
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- Sec. 109. Procedures in addition to other rights of employees.
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TITLE II—AMENDMENTS TO THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

- Sec. 201. References to act.
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- Sec. 207. Requirement of payment of attorney's fee.
- Sec. 208. Requirement of posting of notice at employer's business.

TITLE III—EFFECTIVE DATE

- Sec. 301. Effective date.

1 **TITLE I—ASSISTANCE TO WORK-**  
2 **ERS SUBJECT TO PLANT**  
3 **CLOSINGS OR MASS LAYOFFS**  
4 **BECAUSE THEIR WORK IS**  
5 **TRANSFERRED TO LOW WAGE**  
6 **FOREIGN COUNTRIES**

7 **SEC. 101. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—The Congress finds the following:

9 (1) During the last 2 decades millions of jobs  
10 in the United States have been transferred by busi-  
11 nesses to foreign countries to take advantage of the  
12 low wages and lack of labor standards in those coun-  
13 tries.

14 (2) Millions of additional jobs in the United  
15 States are at risk of such a transfer during the  
16 1990's, particularly if the North American Free  
17 Trade Agreement is approved by the Congress.

18 (3) The threat of the transfer of work to low  
19 wage foreign countries suppresses wages and bene-  
20 fits to workers in the United States and thereby  
21 lessens the purchasing power of middle class families  
22 in the United States.

23 (4) The transfer of jobs to low wage foreign  
24 countries imposes a severe burden upon the individ-  
25 ual workers who are dislocated by such transfers

1 and the communities which are affected by such  
2 transfers.

3 (5) The provision of income, continued health  
4 and pension benefits, and job training assistance to  
5 such dislocated workers would significantly ease the  
6 burdens caused by the transfer of jobs to low wage  
7 foreign countries.

8 (6) The transfer of jobs to take advantage of  
9 the low wages and lack of labor standards in foreign  
10 countries is detrimental to the interests of the Unit-  
11 ed States because such transfers are based on the  
12 incorrect premise that the employees of businesses  
13 constitute a cost to be lowered and not an asset  
14 which should be developed and utilized.

15 (7) The best chance for the United States to  
16 meet international competition in the future is to  
17 focus on a competitive strategy that emphasizes  
18 high-wage, high-skill employment as opposed to em-  
19 ployment that competes internationally on the basis  
20 of low wages.

21 (b) PURPOSES.—The purposes of this title are—

22 (1) to discourage the transfer of work to low  
23 wage foreign countries; and

24 (2) to require businesses that transfer work to  
25 low wage foreign countries to mitigate the costs of

1 the dislocation to workers and communities subject  
2 to that dislocation.

3 **SEC. 102. DEFINITIONS.**

4 For purposes of this title, the following definitions  
5 apply:

6 (1) **AFFECTED EMPLOYEES.**—The term “af-  
7 fected employees” means employees who may rea-  
8 sonably be expected to experience an employment  
9 loss as a consequence of a proposed plant closing or  
10 mass layoff.

11 (2) **EMPLOYER.**—The term “employer” means  
12 any business enterprise that employs—

13 (A) 25 or more employees, excluding part-  
14 time employment; or

15 (B) 25 or more employees who in the ag-  
16 gregate work at least 1,000 hours per week.

17 Such term includes all business entities which have  
18 substantial ownership interest, substantial manage-  
19 ment authority or substantial control over the terms  
20 and conditions of employment of employees at a site  
21 of employment subject to an employment loss.

22 (3) **EMPLOYMENT LOSS.**—The term “employ-  
23 ment loss” means—

1 (A) an employment termination, other than  
2 a discharge for cause, voluntary departure, or  
3 retirement;

4 (B) a layoff exceeding 6 months;

5 (C) a reduction in hours of work of more  
6 than 50 percent during each month of any 6-  
7 month period; or

8 (D) a reduction in salary of more than 33  
9 percent during each month of any 6-month  
10 period.

11 (4) GROUP HEALTH PLAN.—The term “group  
12 health plan” means an employee welfare benefit plan  
13 providing medical care (as defined in section 213(d)  
14 of the Internal Revenue Code of 1986) to partici-  
15 pants or beneficiaries or dependents, directly or  
16 through insurance, reimbursement, or otherwise.

17 (5) LOCATION ASSISTANCE.—The term “loca-  
18 tion assistance” includes any subsidy, infrastructure  
19 development or improvement, tax relief, site prepara-  
20 tion assistance, hiring and training assistance, or  
21 other economic benefit offered by a State or unit of  
22 local government to induce an employer to locate at,  
23 remain at, or expand its operations at a site of em-  
24 ployment within the jurisdiction of such State or po-  
25 litical subdivision.

1           (6) MASS LAYOFF.—The term “mass layoff”  
2 means a reduction in force which—

3           (A) is not the result of a plant closing; and

4           (B) results in an employment loss at the  
5 single site of employment, or 1 or more facili-  
6 ties or operating units within a single site of  
7 employment, during any 30-day period for at  
8 least 12 employees (excluding any part-time  
9 employees).

10          (7) PART-TIME EMPLOYEE.—The term “part-  
11 time employee” means an employee who is employed  
12 for an average of fewer than 20 hours per week or  
13 who has been employed for fewer than 6 of the 12  
14 months preceding the date on which notice is re-  
15 quired.

16          (8) PLANT CLOSING.—The term “plant closing”  
17 means the permanent or temporary shutdown of a  
18 single site of employment, or 1 or more facilities or  
19 operating units within a single site of employment,  
20 if the shutdown results in an employment loss at the  
21 single site of employment during any 30-day period  
22 for 12 or more employees, excluding part-time em-  
23 ployees.

24          (9) SECRETARY.—The term “Secretary” means  
25 the Secretary of Labor.

1           (10) SITE OF EMPLOYMENT.—The term “site  
2       of employment” means any factory, mine, business  
3       office, facility, or other operating unit, or the func-  
4       tional equivalent thereof.

5       **SEC. 103. LIMITATION ON WORK TRANSFER TO LOW WAGE**  
6                               **FOREIGN COUNTRIES.**

7           (a) IN GENERAL.—An employer may not implement  
8       a plant closing or mass layoff at a site of employment due  
9       to a transfer of work to a low wage foreign country which  
10      occurs 1 year before or after such closing or mass layoff  
11      (as described in subsection (b)) unless the employer pro-  
12      vides notice at least 180 days before such closing or mass  
13      layoff in accordance with section 104 and provides benefits  
14      to employees in accordance with section 105.

15          (b) TRANSFER OF WORK DESCRIBED.—

16               (1) IN GENERAL.—Except as provided in para-  
17      graph (2), work shall be considered to be transferred  
18      to a low wage foreign country for purposes of sub-  
19      section (a) if the employer—

20                   (A) increases the amount of work per-  
21                   formed at 1 or more sites of employment in 1  
22                   or more low wage foreign countries and such  
23                   work is substantially similar to the work per-  
24                   formed at the site of employment referred to in  
25                   subsection (a); or



1 (B) increases the amount of products or  
2 services which are imported from 1 or more low  
3 wage foreign countries and such products or  
4 services are substantially similar to the prod-  
5 ucts or services produced or provided at the site  
6 of employment referred to in subsection (a).

7 (2) EXCEPTION.—If an employer who orders a  
8 plant closing or mass layoff at a site of employment  
9 referred to in subsection (a) proves that the increase  
10 in—

11 (A) work described in paragraph (1)(A)  
12 which is performed in a low wage foreign coun-  
13 try; or

14 (B) products or services described in para-  
15 graph (1)(B) which are imported to the United  
16 States from a low wage foreign country,  
17 is not related to the plant closing or mass layoff at  
18 such site of employment, the employer shall not be  
19 required to provide notice in accordance with section  
20 104 or benefits to the employees in accordance with  
21 section 105.

22 (3) CONSTRUCTION.—For purposes of para-  
23 graph (1), if an increase described in such para-  
24 graph is carried out by any person which owns at  
25 least 10 percent of an employer described in sub-

1 section (a) or by any person, 10 percent of which is  
2 owned by such employer, such employer shall be con-  
3 sidered to have carried out such increase.

4 (c) PUBLICATION IN THE FEDERAL REGISTER.—The  
5 Secretary shall publish annually in the Federal Register  
6 the name of each low wage foreign country as defined in  
7 subsection (d), as determined under regulations developed  
8 by the Secretary.

9 (d) LOW WAGE FOREIGN COUNTRY DEFINED.—For  
10 purposes of this section, the term “low wage foreign coun-  
11 try” means—

12 (1) a country in which the average wage is less  
13 than 50 percent of the average wage in the United  
14 States, as determined by the Secretary; or

15 (2) a country in which the employment stand-  
16 ards relating to the payment of overtime compensa-  
17 tion, child labor, or employee safety and health  
18 which are in effect and enforced in such country are  
19 substantially less effective than the standards under  
20 the Fair Labor Standards Act of 1938 (29 U.S.C.  
21 201 et seq.) and the Occupational Safety and Health  
22 Act of 1970 (29 U.S.C. 651 et seq.), as determined  
23 by the Secretary.

1 **SEC. 104. NOTICE REQUIREMENTS.**

2 (a) IN GENERAL.—(1) An employer who implements  
3 a plant closing or mass layoff subject to section 103 shall  
4 provide written notice of such closing or mass layoff—

5 (A) to each representative of the affected em-  
6 ployees as of the time of the notice or, if there is  
7 no such representative at that time, to each affected  
8 employee; and

9 (B) to the State dislocated worker unit (des-  
10 ignated or created under title III of the Job Train-  
11 ing Partnership Act (29 U.S.C. 1651 et seq.)) and  
12 the chief elected official of the unit of local govern-  
13 ment within which such closing or layoff is to occur.

14 (2) If there is more than 1 such unit of local govern-  
15 ment, the unit of local government which the employer  
16 shall notify is the unit of local government to which the  
17 employer pays the highest taxes for the year preceding the  
18 year for which the determination is made.

19 (b) CONTENTS OF NOTICE.—The notice required  
20 under subsection (a) shall include a statement of—

21 (1) the nature of the site of employment at  
22 which the plant closing or mass layoff is to be un-  
23 dertaken;

24 (2) the reasons for undertaking such plant clos-  
25 ing or mass layoff;

1           (3) any alternative to undertaking such plant  
2 closing or mass layoff;

3           (4) any request made by the employer to a  
4 State or unit of general local government for loca-  
5 tion assistance to avoid such plant closing or mass  
6 layoff with respect to such site of employment;

7           (5) the estimated extent of the employment loss  
8 within the employer which will result from such  
9 plant closing or mass layoff;

10          (6) any plan to minimize the effects of such  
11 plant closing or mass layoff on employees at such  
12 site of employment and on any unit of local govern-  
13 ment having jurisdiction over the geographical area  
14 in which the site of employment is located;

15          (7) the economic circumstances of such site of  
16 employment, including the level of profitability of op-  
17 erations at the site of employment, and any plans  
18 for future investment, employment, and production  
19 at the site of employment;

20          (8) the economic circumstances of the employer  
21 and the feasibility of transferring employees affected  
22 by such plant closing or mass layoff to other sites  
23 of employment of the employer; and

1           (9) the names and addresses of all employees  
2           who will suffer an employment loss as a result of  
3           such plant closing or mass layoff.

4   **SEC. 105. EMPLOYEE BENEFITS.**

5           (a) IN GENERAL.—An employer shall provide the fol-  
6           lowing benefits to each employee who suffers an employ-  
7           ment loss due to a plant closing or mass layoff subject  
8           to section 103:

9           (1) SEVERANCE PAY.—Severance pay equal to  
10          the product of—

11                  (A) the amount equal to 4 weeks wages of  
12                  the employee, calculated at the average wage  
13                  which the employee received in the final 26  
14                  weeks of employment with the employer; and

15                  (B) the number of years the employee was  
16                  employed by the employer.

17          (2) HEALTH CARE BENEFITS.—Continuation of  
18          benefits under the same terms and conditions of a  
19          group health plan previously provided to the em-  
20          ployee for the period ending 18 months after the  
21          date of the plant closing or mass layoff.

22          (3) REIMBURSEMENT FOR RETRAINING AND  
23          RELATED EXPENSES.—Reimbursement (not to ex-  
24          ceed \$10,000) for retraining, job search, and reloca-  
25          tion expenses incurred during the period ending 2

1 years after the date of the notice of the plant closing  
2 or mass layoff.

3 (4) TRAINING INCENTIVE PAYMENTS.—Incen-  
4 tive payments equal to 25 percent of 1 weeks wages  
5 of the employee (calculated in accordance with para-  
6 graph (1)(A)) for each week during which the em-  
7 ployee participates in a job training program during  
8 the period ending 2 years after the date of the notice  
9 of the plant closing or mass layoff.

10 (5) RETIREMENT BENEFITS.—In any case in  
11 which, as of the date of the plant closing or mass  
12 layoff, the employee is a participant in an employee  
13 pension benefit plan (as defined in section 3(2) of  
14 the Employee Retirement Income Security Act of  
15 1974 (29 U.S.C. 1002(2))) and has attained an age  
16 which is at or above 5 years before early or normal  
17 retirement age (as defined in section 3(24) of such  
18 Act (29 U.S.C. 1002(24))) under the plan, benefits  
19 which are the actuarial equivalent of benefit accruals  
20 which would occur under the plan if the employee  
21 had continued in full-time service under the plan for  
22 5 years after such date at the same rate of pay and  
23 had made all required contributions for such period.  
24 (b) ESTABLISHMENT OF EMPLOYEE ACCOUNT.—

1           (1) IN GENERAL.—An employer who imple-  
2           ments a plant closing or mass layoff subject to sec-  
3           tion 103 shall establish an employee benefit account  
4           into which the employer shall make payments suffi-  
5           cient to fund the amount of the benefits to be pro-  
6           vided under subsection (a).

7           (2) MANAGEMENT OF ACCOUNT.—The account  
8           established under paragraph (1) shall be managed  
9           by 5 individuals, of whom—

10                   (A) 2 individuals shall be selected by the  
11           employer;

12                   (B) 2 individuals shall be selected by the  
13           affected employees; and

14                   (C) 1 individual shall be selected by the 4  
15           individuals referred to in subparagraphs (A)  
16           and (B).

17           (3) REGULATIONS.—The Secretary shall pro-  
18           mulgate regulations with respect to the establish-  
19           ment and management of accounts under this sub-  
20           section.

21 **SEC. 106. RESTRICTION ON EMPLOYER TO ENTER INTO**  
22 **CONTRACT WITH THE UNITED STATES FOR**  
23 **FAILURE TO PROVIDE NOTICE OR BENEFITS.**

24           (a) IN GENERAL.—Except as provided in subsection

25 (b), an employer who implements a plant closing or mass

1 layoff subject to section 103 and does not provide the no-  
2 tice or benefits in accordance with sections 104 or 105,  
3 respectively, may not enter into a contract with the United  
4 States for the provision of products or services which were  
5 involved in the work transfer described in section 103 or  
6 which are substantially similar to such products or serv-  
7 ices.

8 (b) NATIONAL SECURITY WAIVER.—The Secretary,  
9 in consultation with the head of the appropriate Federal  
10 agency to which the proposed contract relates, may waive  
11 the restriction described in subsection (a) with respect to  
12 an employer if the employer demonstrates that such re-  
13 striction would threaten the national security of the Unit-  
14 ed States.

15 **SEC. 107. INVESTIGATIVE AUTHORITY.**

16 (a) IN GENERAL.—To ensure compliance with this  
17 title, or any regulation issued under this title, the Sec-  
18 retary, subject to subsection (c), shall have the investiga-  
19 tive authority provided under section 11(a) of the Fair  
20 Labor Standards Act of 1938 (29 U.S.C. 211(a)).

21 (b) OBLIGATION TO KEEP AND PRESERVE  
22 RECORDS.—An employer shall keep and preserve records  
23 in accordance with section 11(c) of the Fair Labor Stand-  
24 ards Act of 1938 (29 U.S.C. 211(c)) and in accordance  
25 with regulations issued by the Secretary.



1 (c) SUBPOENA POWER.—For the purposes of any in-  
2 vestigation provided for in this section, the Secretary shall  
3 have the subpoena authority provided for under section  
4 9 of the Fair Labor Standards Act of 1938 (29 U.S.C.  
5 209).

6 **SEC. 108. ENFORCEMENT.**

7 (a) CIVIL ACTION BY EMPLOYEES.—

8 (1) LIABILITY.—An employer who implements  
9 a plant closing or mass layoff in violation of section  
10 103 shall be liable to each employee who suffers an  
11 employment loss due to such closing or mass lay-  
12 off—

13 (A) for damages equal to—

14 (i) the amount of any wages, salary,  
15 employment benefits, or other compensa-  
16 tion denied or lost to such employee by  
17 reason of the violation;

18 (ii) the interest on the amount de-  
19 scribed in clause (i) calculated at the pre-  
20 vailing rate; and

21 (iii) an additional amount as liq-  
22 uidated damages equal to the sum of the  
23 amount described in clause (i) and the in-  
24 terest described in clause (ii), except that  
25 if the employer proves to the satisfaction

1 of the court that the act or omission which  
2 violated section 103 was in good faith and  
3 that the employer had reasonable grounds  
4 for believing that the act or omission was  
5 not a violation of such section, such court  
6 may, in the discretion of the court, reduce  
7 the amount of the liability to the amount  
8 and interest determined under clauses (i)  
9 and (ii), respectively;

10 (B) for damages equal to any actual mone-  
11 tary loss sustained by the employee as a direct  
12 result of the violation, such as the cost of pro-  
13 viding health care; and

14 (C) for such equitable relief as may be ap-  
15 propriate, including, employment, reinstate-  
16 ment, and promotion.

17 (2) STANDING.—An action to recover the dam-  
18 ages or equitable relief described in paragraph (1)  
19 may be maintained against an employer in any Fed-  
20 eral or State court of competent jurisdiction by any  
21 1 or more employees who suffer an employment loss  
22 due to the closing or mass layoff for and in behalf  
23 of—

24 (A) such employees; or

1 (B) such employees and other employees  
2 similarly situated under the provisions of Fed-  
3 eral Rule of Civil Procedure 23.

4 (3) FEES AND COSTS.—The court in such an  
5 action shall, in addition to any judgment awarded to  
6 the plaintiff, allow a reasonable attorney's fee, rea-  
7 sonable expert witness fees, and other costs of the  
8 action to be paid by the defendant.

9 (b) ACTION BY STATE AND UNIT OF LOCAL GOVERN-  
10 MENT.—

11 (1) LIABILITY.—An employer who implements  
12 a plant closing or mass layoff in violation of section  
13 103 shall be liable to the State or unit of local gov-  
14 ernment in which the employer is located for dam-  
15 ages equal to the difference of—

16 (A) the location assistance provided to the  
17 employer by the State or unit of local govern-  
18 ment; and

19 (B) the amount of the benefit, if any,  
20 which the State or unit of local government will  
21 continue to receive as a result of the provision  
22 of such assistance to the employer.

23 (2) STANDING.—An action to recover the dam-  
24 ages described in paragraph (1) may be maintained  
25 against any employer in any Federal or State court

1 of competent jurisdiction by the State or unit of  
2 local government described in paragraph (1).

3 (3) FEES AND COSTS.—The court in such an  
4 action shall, in addition to any judgment awarded to  
5 the plaintiff, allow a reasonable attorney's fee, rea-  
6 sonable expert witness fees, and other costs of the  
7 action to be paid by the defendant.

8 (c) ACTION BY THE SECRETARY.—

9 (1) ADMINISTRATIVE ACTION.—The Secretary  
10 shall receive, investigate, and attempt to resolve  
11 complaints of violations of section 103 in the same  
12 manner that the Secretary receives, investigates, and  
13 attempts to resolve complaints of violations of sec-  
14 tions 6 and 7 of the Fair Labor Standards Act of  
15 1938 (29 U.S.C. 206 and 207).

16 (2) CIVIL ACTION.—The Secretary may bring  
17 an action in any court of competent jurisdiction to  
18 recover the damages described in subsection  
19 (a)(1)(A) on behalf of each employee who suffers an  
20 employment loss due to a plant closing or mass lay-  
21 off in violation of section 103.

22 (3) SUMS RECOVERED.—(A) Any sums recov-  
23 ered by the Secretary on behalf of an employee  
24 under paragraph (2) shall be held in a special de-

1       posit account and shall be paid, on order of the Sec-  
2       retary, directly to such employee.

3           (B) Any such sums not paid to an employee be-  
4       cause of inability to do so within a period of 3 years  
5       from the date of recovery by the Secretary shall be  
6       credited as an offsetting collection to the appropria-  
7       tions account of the Secretary of Labor for expenses  
8       for the administration of this title and shall remain  
9       available to the Secretary until expended.

10       (d) LIMITATION.—

11           (1) IN GENERAL.—An action may be brought  
12       under subsection (a), (b), or (c) not later than 3  
13       years after the date of the last event constituting the  
14       alleged violation for which the action is brought.

15           (2) COMMENCEMENT WITH RESPECT TO ACTION  
16       BY SECRETARY.—In determining when an action is  
17       commenced by the Secretary under subsection (c)  
18       for purposes of paragraph (1), such action shall be  
19       considered to be commenced on the date when the  
20       complaint is filed.

21       (e) ACTION FOR INJUNCTION BY SECRETARY.—The  
22       district courts of the United States shall have jurisdiction,  
23       for cause shown, over an action brought by the Secretary  
24       to restrain violations of section 103, including actions to  
25       restrain the withholding of payment of wages, salary, em-

1 ployment benefits, or other compensation, plus interest,  
2 found by the court to be due to employees who suffer an  
3 employment loss due to a plant closing or mass layoff in  
4 violation of such section.

5 **SEC. 109. PROCEDURES IN ADDITION TO OTHER RIGHTS OF**  
6 **EMPLOYEES.**

7 The rights and remedies provided to employees under  
8 this title are in addition to, and not in lieu of, any other  
9 contractual or statutory rights and remedies of the em-  
10 ployees, and are not intended to alter or affect such rights  
11 and remedies, except that the period of notification re-  
12 quired by section 103(a) shall run concurrently with any  
13 period of notification required by contract or by any other  
14 law.

15 **SEC. 110. REQUIREMENT OF POSTING OF NOTICE BY EM-**  
16 **PLOYER AT SITE OF EMPLOYMENT.**

17 (a) IN GENERAL.—Each employer shall post and  
18 keep posted, in conspicuous places at the site of employ-  
19 ment of the employer where notices to employees and ap-  
20 plicants for employment are customarily posted, a notice,  
21 to be prepared or approved by the Secretary, setting forth  
22 excerpts from, or summaries of, the pertinent provisions  
23 of this title and information pertaining to the filing of a  
24 charge.

1 (b) PENALTY.—Any employer that willfully violates  
2 the requirements described in subsection (a) may be as-  
3 sessed a civil money penalty not to exceed \$100 for each  
4 separate offense.

5 **TITLE II—AMENDMENTS TO THE**  
6 **WORKER ADJUSTMENT AND**  
7 **RETRAINING NOTIFICATION**  
8 **ACT**

9 **SEC. 201. REFERENCES TO ACT.**

10 Except as otherwise expressly provided, whenever in  
11 this title an amendment or repeal is expressed in terms  
12 of an amendment to, or repeal of, a section or other provi-  
13 sion, the reference shall be considered to be made to a  
14 section or other provision of the Worker Adjustment and  
15 Retraining Notification Act (29 U.S.C. 2101 et seq.).

16 **SEC. 202. DEFINITIONS.**

17 Section 2(a) is amended—

18 (1) in paragraph (1)(A), by striking “100” and  
19 inserting “50”;

20 (2) in paragraph (1)(B), by striking “100” and  
21 inserting “50” and by striking “4,000” and insert-  
22 ing “2,000”;

23 (3) in paragraph (2), by striking “50” and in-  
24 serting “25”; and

25 (4) in paragraph (3) to read as follows:

1 “(3) the term ‘mass layoff’ means a reduction  
2 in force which—

3 “(A) is not the result of a plant closing;  
4 and

5 “(B) results in an employment loss at the  
6 single site of employment during any 30-day pe-  
7 riod for at least 25 employees;”.

8 **SEC. 203. INCREASE IN TIME PERIOD OF NOTICE REQUIRED**  
9 **BEFORE PLANT CLOSINGS AND MASS LAY-**  
10 **OFFS.**

11 Section 3 is amended—

12 (1) by striking “60-day period” each place it  
13 appears and inserting “180-day period”; and

14 (2) by striking subsection (d).

15 **SEC. 204. ADDITIONAL DAMAGES FOR DETERMINATION OF**  
16 **EMPLOYER LIABILITY.**

17 Section 5 (a)(1) is amended—

18 (1) by striking “as a result of such closing or  
19 layoff for—” and inserting “as a result of such clos-  
20 ing or layoff for damages equal to—”

21 (2) in subparagraph (A), by striking “back pay  
22 for each day” and inserting “the amount of back  
23 pay for each day”;

24 (3) in subparagraph (A)(ii), by striking “and”  
25 at the end of such subparagraph;



1 (4) in subparagraph (B), by striking the period  
2 at the end of such subparagraph;

3 (5) by inserting after subparagraph (B) the fol-  
4 lowing new subparagraphs:

5 “(C) actual monetary losses sustained by  
6 the employee as a direct result of the violation;

7 “(D) the interest on the amount described  
8 in subparagraph (A) calculated at the prevailing  
9 rate; and

10 “(E) an additional amount as liquidated  
11 damages equal to the sum of the amount de-  
12 scribed in subparagraph (A) and the interest  
13 described in subparagraph (D);” and

14 (6) in the last sentence, by striking “60 days”  
15 and inserting “180 days”.

16 **SEC. 205. LIMITATION OF LIABILITY FOR GOOD FAITH ACT**  
17 **OR OMISSION IN VIOLATION OF ACT.**

18 Section 5(a)(4) is amended by striking “or penalty  
19 provided for in this section” and inserting “to the amounts  
20 determined under subparagraphs (A) and (C) of para-  
21 graph (1) and the interest determined under subpara-  
22 graph (D) of such paragraph”.

23 **SEC. 206. ADDITIONAL ENFORCEMENT REQUIREMENTS.**

24 Section 5, as amended by sections 204 and 205, is  
25 further amended—

1           (1) by redesignating subsection (b) as sub-  
2           section (e); and

3           (2) by inserting after subsection (a) the follow-  
4           ing new subsections:

5           “(b) ACTION BY THE SECRETARY.—

6           “(1) The Secretary shall receive, investigate,  
7           and attempt to resolve complaints of violations of  
8           section 3 in the same manner that the Secretary re-  
9           ceives, investigates, and attempts to resolve com-  
10          plaints of violations of sections 6 and 7 of the Fair  
11          Labor Standards Act of 1938 (29 U.S.C. 206 and  
12          207).

13          “(2) The Secretary may bring an action in any  
14          court of competent jurisdiction to recover the dam-  
15          ages described in subsection (a).

16          “(3) Any sums recovered by the Secretary pur-  
17          suant to paragraph (2) shall be held in a special de-  
18          posit account and shall be paid, on order of the Sec-  
19          retary, directly to each employee affected. Any such  
20          sums not paid to an employee because of inability to  
21          do so within a period of 3 years shall be credited as  
22          an offsetting collection to the appropriations account  
23          of the Secretary of Labor for expenses for the ad-  
24          ministration of this title and shall remain available  
25          to the Secretary until expended.

1 “(c) LIMITATION.—

2 “(1) Except as provided in paragraph (2), an  
3 action may be brought under this section not later  
4 than 2 years after the date of the last event con-  
5 stituting the alleged violation for which the action is  
6 brought.

7 “(2) In the case of such action brought for a  
8 willful violation of section 3, such action may be  
9 brought within 3 years of the date of the last event  
10 constituting the alleged violation for which such ac-  
11 tion is brought.

12 “(3) In determining when an action is com-  
13 menced by the Secretary under this section for the  
14 purposes of this subsection, it shall be considered to  
15 be commenced on the date when the complaint is  
16 filed.

17 “(d) SOLICITOR OF LABOR.—The Solicitor of Labor  
18 may appear for and represent the Secretary on any litiga-  
19 tion brought under this section.”.

20 **SEC. 207. REQUIREMENT OF PAYMENT OF ATTORNEY’S FEE.**

21 Section 5(a), as amended by sections 204 through  
22 206, is further amended in paragraph (6) by striking “the  
23 court, in its discretion, may allow” and inserting “the  
24 court shall”.

1 **SEC. 208. REQUIREMENT OF POSTING OF NOTICE AT EM-**  
 2 **PLOYER'S BUSINESS.**

3 (a) IN GENERAL.—Section 8 is amended by adding  
 4 at the end the following new subsection:

5 “(c) POSTING OF NOTICE AT EMPLOYER’S BUSI-  
 6 NESS.—(1) Each employer shall post and keep posted, in  
 7 conspicuous places on the premises of the employer where  
 8 notices to employees and applicants for employment are  
 9 customarily posted, a notice, to be prepared or approved  
 10 by the Secretary, setting forth excerpts from, or sum-  
 11 maries of, the pertinent provisions of this Act and infor-  
 12 mation pertaining to the filing of a charge.

13 “(2) Any employer that willfully violates the require-  
 14 ments described in paragraph (1) may be assessed a civil  
 15 money penalty not to exceed \$100 for each separate of-  
 16 fense.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) IN GENERAL.—Section 8, as amended by  
 19 subsection (a), is further amended—

20 (A) in the heading of such section to read  
 21 as follows:

22 **“SEC. 8. REGULATIONS AND NOTICE REQUIREMENTS.”;**

23 (B) in subsection (a), by striking “The  
 24 Secretary of Labor” and inserting “REGULA-  
 25 TIONS.—The Secretary of Labor”; and

1 (C) in subsection (b), by striking “The  
2 mailing of notice” and inserting “MAILING OF  
3 NOTICE TO EMPLOYEE.—The mailing of no-  
4 tice”.

5 (2) TABLE OF CONTENTS.—Section 1(b) (relat-  
6 ing to the table of contents) is amended in the item  
7 relating to section 8 to read as follows:

“Sec. 8. Regulations and notice requirements.”.

## 8 **TITLE III—EFFECTIVE DATE**

### 9 **SEC. 301. EFFECTIVE DATE.**

10 This Act, and the amendments made by this Act,  
11 shall take effect on the date which is 6 months after the  
12 date of the enactment of this Act.

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